

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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FAITH TOWNSEND,

Plaintiff,

vs.

ROCKWELL AUTOMATION,

Defendant.

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Case No. 1:18-cv-2742

OPINION & ORDER  
[Resolving Doc. [7](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

*Pro se* Plaintiff Faith Townsend alleges that she suffered racist verbal abuse from her co-workers while working for Defendant Rockwell Automation (“Rockwell”).<sup>1</sup> Townsend claims that Rockwell not only failed to punish those co-workers but retaliated because of her complaints.<sup>2</sup>

Accordingly, Townsend brings this Title VII action.<sup>3</sup> Defendant Rockwell moves to dismiss.<sup>4</sup> For the following reasons, the Court **GRANTS** that motion.

**A. The Court Has Subject-Matter Jurisdiction**

Defendant Rockwell states, without argument or explanation, that the Court does not have subject matter jurisdiction.<sup>5</sup> Rockwell is wrong. Plaintiff makes claims under Title VII; the Court plainly has jurisdiction over cases arising under federal law.<sup>6</sup>

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<sup>1</sup> Doc. [1](#).

<sup>2</sup> *Id.* Such retaliation included providing her inferior equipment, falsely attributing customer complaints to her, refusing to pay her overtime, and demoting her.

<sup>3</sup> *Id.* Originally, Townsend also brought claims under [42 U.S.C. § 1983](#). *Id.* However, because she did not allege that the misconduct occurred under color of law, the Court dismissed her [§ 1983](#) claims. Doc. [10](#). Further, Townsend also originally sued her supervisor, Robert Rodriguez. Doc. [1](#). However, because Rodriguez did not qualify as an employer under Title VII, the Court dismissed Plaintiff’s claims against him. Doc. [10](#).

<sup>4</sup> Doc. [7](#). Plaintiff opposes. Doc. [12](#).

<sup>5</sup> Doc. [7](#) at 3. See [Fed. R. Civ. P. 12\(b\)\(1\)](#).

<sup>6</sup> [28 U.S.C. § 1331](#).

**B. Plaintiff Properly Served Defendant**

Rockwell also moves to dismiss for insufficient service of process.<sup>7</sup> It argues that “the docket reflects that Plaintiff has not perfected proper service.”<sup>8</sup> The docket actually reflects the opposite.

To serve a corporation (like Defendant), the plaintiff may deliver a copy of the summons and the complaint to a corporate agent authorized to receive service.<sup>9</sup> Here, an affidavit shows that Townsend, via personal service, delivered a copy of the summons to Robert Rodriguez, whom Plaintiff claims was authorized to receive service.<sup>10</sup>

Defendant Rockwell does not dispute that Rodriguez was an authorized agent and does not argue that Rodriguez did not receive the documents.<sup>11</sup> Plaintiff served Defendant properly.

**C. Plaintiff’s Claims Are Untimely or She Has Not Exhausted Her Administrative Remedies**

Broadly speaking, Title VII prohibits workplace discrimination. However, Congress tasked the Equal Employment Opportunity Commission (the “EEOC”)—not the courts—with initial enforcement.<sup>12</sup> Thus, before a plaintiff may bring a Title VII claim in federal court, he must exhaust his administrative remedies by filing a charge with the EEOC and receiving a “right-to-sue letter.”<sup>13</sup>

Here, Townsend filed two EEOC charges regarding her allegations in this case.

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<sup>7</sup> Doc. 7 at 3. See Fed. R. Civ. P. 12(b)(5).

<sup>8</sup> Doc. 7 at 3.

<sup>9</sup> Fed. R. Civ. P. 4(h)(1)(B).

<sup>10</sup> Doc. 6. Technically, Plaintiff’s agent served a security guard whom Rodriguez had authorized to receive documents on his behalf.

<sup>11</sup> See Doc. 7 at 3.

<sup>12</sup> *Younis v. Pinnacle Airlines, Inc.*, 610 F.3d 359, 361–62 (6th Cir. 2010).

<sup>13</sup> *Peeples v. City of Detroit*, 891 F.3d 622, 630 (6th Cir. 2018).

Plaintiff filed her first EEOC charge with allegations of misconduct occurring between roughly 2007 and June 2017.<sup>14</sup> According to Townsend, the EEOC then issued a September 2017, right-to-sue letter.<sup>15</sup> From that time, Townsend had ninety days to file a civil action.<sup>16</sup> However, Townsend filed this action in November 2018—missing her window by about a year.<sup>17</sup> Thus, the Court dismisses Plaintiff’s Title VII claims arising from her first EEOC charge as untimely.<sup>18</sup>

Townsend filed a second EEOC charge alleging misconduct occurring between June 2017 and August 2018.<sup>19</sup> However, Townsend has not obtained a right-to-sue letter for this charge. Thus, Townsend has not exhausted her administrative remedies.<sup>20</sup> The Court dismisses Plaintiff’s Title VII claims arising from her second EEOC charge without prejudice for failure to exhaust.

### Conclusion

For the foregoing reasons, the Court **GRANTS** Defendant’s motion to dismiss.

IT IS SO ORDERED.

Dated: May 1, 2019

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

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<sup>14</sup> Doc. 1 ¶¶ 1–17.

<sup>15</sup> *Id.* ¶ 17.

<sup>16</sup> *Tate v. United Serv. Assoc., Inc.*, 75 F. App’x 470, 471 (6th Cir. 2003); 42 U.S.C. § 2000e-5(f)(1).

<sup>17</sup> *See* Doc. 1.

<sup>18</sup> Although untimeliness may be excused through waiver, estoppel, or equitable tolling, Plaintiff has not argued any of those theories here. *See Hobson v. Mattis*, No. 18-5306, 2018 WL 7890771, at \*3 (6th Cir. Nov. 8, 2018).

<sup>19</sup> *See* Doc. 1 ¶ 18–25.

<sup>20</sup> *Peeples*, 891 F.3d at 630–31. Like untimeliness, failure to obtain a right-to-sue letter may be excused through waiver, estoppel, or equitable tolling. *See id.* However, Plaintiff has not argued any of those theories here.